

FILED

FEB 15 2012

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

1 Lumont Otis)
2 Petitioner)
3 v.)
4 United States of America,)
5 Respondent.)
6 _____)
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No. C 09-0595-DLJ
C 10-4302
(Appeal No. 11-17761)
ORDER

Otis filed a petition to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255 alleging ineffective assistance of counsel. On October 11, 2011 this Court issued an order denying Otis' 2255 motion holding that Otis had made no showing on the issue of ineffective assistance of counsel.

On October 24, 2011, Otis filed in this court a Notice of Intent to Appeal the October 11, 2011 Order to the Ninth Circuit. On November 17, 2011 the Ninth Circuit assigned appellate case number 11-17761 to Otis' case pending a issuance of a Certificate of Appealability by this Court.

On January 23, 2011 the Ninth Circuit issued a limited remand to this Court for the purpose of the Court granting or denying a Certificate of Appealability. Otis has failed to make a substantial showing that his claim of ineffective assistance of counsel amounted to a denial of his constitutional rights or to demonstrate that a reasonable jurist would find the denial of his claim debatable or wrong. See Slack v. McDaniel, 529 U.S. 473, 484 (2000). Consequently, the Court finds that the standards for granting a Certificate of Appealability have not been met in this case and a request for a Certificate of Appealability is DENIED. See United States v. Asrar, 116 F.3d

United States District Court
For the Northern District of California

1 1268, 1270 (9th Cir. 1997).

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4 IT IS SO ORDERED.

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6 Dated: February 9, 2012

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D. Lowell Jensen
United States District Judge